IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B.CIVIL WRIT PETITION NO.3263/2000.
M/s.Vatsal Construction Company.
VERSUS
The Secretary, U.I.T., Kota.

01.09.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.R.M.Sharma, for the petitioner.
Mr.Prashant Sharma, for the respondent.

*****

The petitioner has made the following prayer in the writ petition:-

> "(i) issue a writ of certiorari, wherewithal the order of imposition of compensation of Rs.1,000/- for the alleged delayed execution of the work be quashed and set aside in toto;
>
> (ii) issue a writ of mandamus, wherewithal the respondent be directed to make the payment of escalation charges as per escalation bill dated 11.10.1999 (Annexure-7) together with the accrued interest @ 24% per annum from the actual date of escalation falling due and till actual payment; and
>
> (iii) issue a writ of mandamum for the refund of Rs.1,000/- compensation recovered from the IVth and final Bill of the petitioner;
>
> (iv) cost of petition may also kindly be granted to the petitioner."

The above questions relating to the penalty on account of the delay in execution of the work, the right of the petitioner to claim additional payment on account

of the escalation of cost etc. cannot be gone into in the writ jurisdiction under Article 226 of the Constitution of India as these are questions of fact and the respondents do not admit the right of the petitioner to the same, as such, there being a serious dispute between the parties on the respective rights and liabilities as well as consequential relief including quantum of the money if at all the petitioner is liable to receive. These matters cannot be examined in the writ jurisdiction under Article 226 of the Constitution of India.

Learned counsel for the respondent in the reply has submitted that in the contract itself Clause-23 provides for the parties, in the event of their being any dispute, to raise the matter before the Arbitrator.

In view of the above, since the matter relates to the contractual rights and involves determination of disputed questions of fact, this writ petition is hereby dismissed with liberty to the petitioner to raise the dispute in the alternative redressal forum as per the Clause-23 of the agreement.

Consequently, the writ petition stands dismissed.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.